

SENATE No. 01244

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing the Fire Prevention Regulations Appeals Board.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>George Ross</i>	<i>2nd Bristol</i>

SENATE No. 01244

By Mr. Timilty, petition (accompanied by bill, Senate, No. 1244) of Ross and Timilty for legislation to establish the Fire Prevention Regulations Appeals Board [Joint Committee on Public Safety and Homeland Security].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 2570 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act establishing the Fire Prevention Regulations Appeals Board.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 22D of the General Laws is hereby amended by adding the
2 following section:-

3 Section 5. (a) There is hereby established a fire prevention regulations appeals
4 board, hereinafter referred to as the appeals board. The appeals board shall consist of the 14
5 members of the board of fire prevention regulations, established pursuant to section 4.

6 The governor shall, from time to time, designate a member of the appeals board as
7 chairman.

8 The appeals board may, subject to appropriation and the approval of the state fire
9 marshal, employ such clerical, technical and other assistants as may be required by the appeals
10 board.

11 (b) Whoever is aggrieved by any act, rule, order, decision, requirement of, or direction
12 by, any state or local official charged with the enforcement of the state fire code relative to the
13 fire protection requirements for buildings or structures, may appeal therefrom to the appeals
14 board within 45 days following the service of notice of such act, rule, order, decision,
15 requirement or direction. Appeals filed pursuant to this section shall be made on a form as
16 prescribed or approved by the appeals board and shall be accompanied by such reasonable filing
17 fee as established by the appeals board. The keeper of the records, and any other person in
18 possession or control of records related to an appeal, for the commonwealth, a city or a town
19 shall, upon request of the appeals board, forthwith transmit such records to the appeals board.

20 An appeal shall stay all proceedings in the furtherance of the action or failure to act
21 which is the subject of the appeal, unless the state or local agency or person charged with the
22 administration or enforcement of the state fire code, or any of its rules and regulations presents
23 evidence that a stay would cause imminent peril of life or property.

24 The chairman of the appeals board shall designate 3 members of the appeals board to
25 hold public hearings, hear testimony and take evidence. The appeals board shall not be bound by
26 the strict rules of evidence prevailing in courts of law or equity. The chairman shall fix the time
27 and place for hearings and a hearing shall take place not later than 60 days following the filing of
28 an appeal, unless such time is extended by agreement with the appellant. The chairman shall give

29 not less than 10 days notice of the time and place of said hearing to all interested parties. Any
30 party may appear in person, by agent or by attorney at the hearing.

31 Decisions on appeal shall be made by the 3-member appeals board conducting the
32 hearing. Every decision shall require the concurrence of at least 2 of the 3 members and the
33 appeals board shall state, in writing, its findings of fact, conclusions and reasons for decision and
34 indicate the vote of each member participating in the decision.

35 The appeals board shall issue a decision or order reversing, affirming or modifying, in
36 whole or in part, such interpretation, order or decision, or a postponement of the application
37 thereof, within 45 days following the hearing unless such time is extended by agreement with the
38 appellant.

39 The appeals board may grant a variance from any provision of the state fire code and
40 related rules and regulations in any particular case, determine the suitability of alternate materials
41 or methods of compliance and provide reasonable interpretations of the state fire code consistent
42 with the purpose thereof.

43 A record of all appeals board decisions and of votes thereunder, properly indexed,
44 shall be maintained in the office of the department of fire services and shall be open to public
45 inspection at all times during regular business hours.

46 SECTION 2. This act shall take effect on January 1, 2012.